

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN EGGLESTON,

Petitioner,

v.

MARGARET GILBERT,

Respondent.

CASE NO. 3:16-CV-05159-RBL-DWC

ORDER GRANTING UNOPPOSED
MOTION TO STAY

The District Court has referred this action to United States Magistrate Judge David W. Christel. Petitioner Brian Eggleston filed a federal habeas Petition, pursuant to 28 U.S.C. § 2254, seeking relief from a state court conviction. Currently before the Court is Petitioner's Unopposed Motion to Stay Habeas Petition Pending State Court Decision ("Motion"). Dkt 7.

District courts may use a "stay-and-abeyance" procedure while a petitioner exhausts his claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77; *Calderon v. United States District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998). Here, Petitioner contends a stay is proper because Petitioner's Amended Petition contains a new claim that has not been presented to the state court. Dkt. 7. Petitioner states he intends to file a personal restraint petition ("PRP") in the

1 state court and requests the Amended Petition be stayed until the anticipated PRP is resolved. *Id.*
2 Petitioner asserts Respondent does not oppose the Motion; however, Respondent does not waive
3 any defense based upon exhaustion, procedural bar, and/or the statute of limitations.

4 After reviewing the Motion, the Motion is granted. The case is stayed until September 16,
5 2016. Petitioner will file a report and, if needed, a motion to extend the stay on or before
6 September 2, 2016 -- fourteen days before the stay ends. Petitioner will inform the Court of the
7 status of his state proceedings. Petitioner's report will include the state court cause number.
8 Further, if the state court dismisses or resolves the PRP, Petitioner will inform the Court and file
9 a motion to lift the stay within 30 days of the state court taking action.

10 Dated this 18th day of March, 2016.

11 
12

13 David W. Christel
14 United States Magistrate Judge
15
16
17
18
19
20
21
22
23
24